

REMARKS

Claims 1-8 are pending in the application. Claims 9-45 have been withdrawn as being directed to non elected subject matter.

Claim 8 has been amend to clarify that the fatty acid ratios are achieved by a combination of from about 30 to about 90% flaxseed oil, from about 0 to about 59% high oleic safflower oil, and from about 0 to about 7% corn oil, by weight of the combination. Support for this amendment can be found at page 8, lines 33 and 34, and at page 9, lines 1-5.

Invention Synopsis

The present invention is directed to a lipid system comprising alpha-linolenic acid (C18:3n-3), omega-6 fatty acids, and omega-9 fatty acids, wherein the ratio of the omega-6 fatty acids to alpha-linolenic acid (C18:3n-3) is from about 0.25:1 to about 3:1, and the ratio of the omega-9 fatty acids to alpha-linolenic acid (C18:3n-3) is from about 0.4:1 to about 3:1.

It has been found that the lipid system of the present invention provides optimized ratios of essential and non-essential fatty acids that can improve the glucose tolerance of a glucose intolerant individual, improve the insulin sensitivity of an insulin resistant individual, and reduce the risk of vascular disease in a individual at risk for vascular disease.

Rejection under 35 USC 112

Claim 8 has been rejected under 35 USC 112, second paragraph, for reciting flaxseed oil, high oleic safflower oil, and corn oil limitations. The Examiner contends that such limitations lack antecedent basis in the claims.

Upon entry of the amendments presented, claim 8 has now been amended to emphasize that the fatty acid ratios are achieved by a combination of from about 30 to about 90% flaxseed oil, from about 0 to about 59% high oleic safflower oil, and from about 0 to about 7% corn oil, by weight of the combination.

Applicants respectfully submit that claim 8, as amended, is now in full compliance with the requirements of 35 USC 112, second paragraph.

Rejection under 35 USC 102

Claims 1-7 have been rejected under 35 USC 102(b) as anticipated by U.S. Patent Publication 2004/0062847 (Koike). The Examiner contends that this particular reference, especially Example 3, discloses the relative amounts of fatty acids as recited in the present claims. Applicants respectfully traverse this rejection as being improper for the following reasons and those previously of record.

The Koike reference discloses oil/fat compositions comprising diglycerides (0.1-49.9%) and monoglycerides (5-99.9%). The monoglycerides have as fatty acid constituents n-3 fatty acids with less than 20 carbon atoms (15-90%), n-9 fatty acids (1-80%), and n-6 fatty acids (2-50%). Koike teaches that the disclosed compositions lower GOT and GPT levels in blood and are therefore useful in pharmaceuticals or foods for obese individuals or those afflicted with hepatic function disturbances.

The Koike reference exemplifies several oil/fat compositions (see Koike, page 5, Table 1). As shown in Table 1, Koike's Example 3 comprises 3.8% triglycerides, 32% diglycerides, and 64.2% monoglycerides, wherein the fatty acids from the monoglycerides include C18:3 n-3 (40.5%), C18:1n-9 (34.5%), C18:2 n-6 (14.0%), C16:0 (7.7%), and C18:0 (3.0%). Koike fails to disclose the fatty acid composition of the monoglyceride and diglyceride components of the composition. As such, the total fatty acid composition, including fatty acid ratios, of the overall composition is not disclosed.

Applicants submit that the Koike reference fails to disclose each and every element as set forth in the claims. Specifically, Koike fails to disclose a lipid system comprising a ratio of omega-6 fatty acids to alpha-linolenic acid (C18:3n-3) of from about 0.25:1 to about 3:1 and a ratio of omega-9 fatty acids to alpha-linolenic acid (C18:3n-3) of from about 0.4:1 to about 3:1.

The examiner maintains, however, that Koike discloses the above limitation from Table 1 of the reference, and states:

“US'847 teaches both di and tri-glycerides in the profile of 3 of Table 1 which was referenced in the previous office action contrary to applicants' assertions. The title for Table 1 is “Oil/Fat composition” indicating an overall fatty acid content.” (page 3, para 6, Jan13, 2006 Office Action)

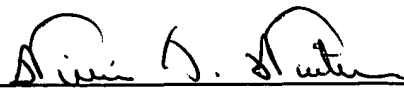
The examiner appears to have misunderstood that which is actually disclosed in Table 1. The fatty acid profile of Table 1 is for the monoglyceride component, not for the entire oil/fat composition. The fatty acid values in the table are clearly associated with the monoglyceride designation in the first column of the table. This particular reading of Table 1 is consistent with Koike's invention, which is specifically directed to the fatty acid profile of the monoglyceride component, not the fatty acid profile of either the diglyceride or triglyceride component, and certainly not the fatty acid profile of the overall oil/fat composition (see Koike, page 1, para 0010)

In view of the foregoing, Applicants respectfully submit that this rejection is unsupported by the art and should, therefore, be withdrawn.

Conclusion

Applicants respectfully request reconsideration of this application and allowance of claims 1-8.

Respectfully submitted,

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